

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO**

DEREK WHITE,

Plaintiff,

v.

KROESCHELL FACILITY
SERVICES, INC.,

Defendant.

Case No.:

District Judge:

Magistrate Judge:

NOTICE OF REMOVAL

Defendant, KROESCHELL FACILITIES SERVICES, INC. by and through its attorneys, Perez & Morris, LLC, seeks removal pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, and in support thereof alleges as follows:

STATEMENT OF THE CASE

1. This action was commenced against Defendant in the Common Pleas Court of Montgomery County, Ohio Civil Division on March 2, 2020. A copy of the Complaint at Law (“Complaint”) was served on the Defendant on March 24, 2020. This action is identified in the Common Pleas Court of Montgomery County, Ohio as 2020-CV-01104. The Complaint identified that Plaintiff resides in Springfield, Ohio and that Kroeschell resides in Illinois and Texas. The Complaint also requests damages well in excess of \$75,000.00. This notice is filed within 30 days after service of the Complaint. Consequently, this Notice of Removal is properly brought pursuant to 28 U.S.C. §1446(b).

2. At the time the action was commenced and since then, the Plaintiff was and is a citizen of the State of Ohio. At the time the action was commenced and since then, the Defendant was and is a corporation organized and existing under the laws of the State of Texas with its principal place of business in Chicago, Illinois. Accordingly, Defendant is a citizen of Illinois and Texas for diversity purposes.

3. The amount in controversy exceeds \$75,000.00, exclusive of interest and costs, based on the damages alleged in Plaintiff's Complaint filed on March 2, 2020. **Exhibit A**, Plaintiff's Complaint and accompanying state court documents (Mar. 2, 2020).

4. This action is a civil one of which the United States district courts have original jurisdiction under 28 U.S.C. §1332.

5. Attached to and incorporated by reference are true and correct copies of all process, pleadings, and orders that have been served on it. 28 U.S.C. §1446(a). *Id.*

DIVERSITY JURISDICTION

6. Under 28 U.S.C. § 1441, removal of a state court action is proper if the action originally could have been filed in federal court.

7. Pursuant to 28 U.S.C. § 1332, this action could have been filed in the Court because there is complete diversity of citizenship and the amount in controversy likely exceeds the sum of \$75,000.00, exclusive of interests and costs.

8. Plaintiff was and is a citizen of the State of Ohio. Accordingly, Plaintiff is a citizen of the state of Illinois for diversity purposes. 28 U.S.C. § 1332.

9. Defendant is a foreign corporation organized and existing under the laws of Texas and with its principal place of business in Illinois. Accordingly, Defendant is a citizen of Texas and Illinois for diversity purposes. 28 U.S.C. § 1332(c)(1) (“a corporation shall be deemed to be a citizen of every State . . . by which it has been incorporated and of the State . . . where it has its principal place of business . . .”).

10. The amount in controversy exceeds \$75,000.00, exclusive of interest and costs, based on the Plaintiff’s allegations of amounts exceeding \$75,000.00 within his Complaint. He also seeks certain equitable and non-economic damages that likely exceed the jurisdictional limits too. Plaintiff alleges injuries of a personal, pecuniary, and permanent nature.

11. Thus, based on the damages and injuries detailed and alleged in Plaintiff’s Complaint, the matter in controversy in this action exceeds \$75,000.00, exclusive of interest and costs.

REMOVAL REQUIREMENTS

12. This Notice of Removal was filed in accordance with 28 U.S.C. §§ 1441 and 1446.

13. Venue is proper pursuant to 28 U.S.C. § 1441, because the Southern District of Ohio encompasses Montgomery County, Ohio, where the state court action was originally commenced.

14. Pursuant to 28 U.S.C. § 1446(d), upon the filing of this Notice of Removal, the Defendant is promptly providing written notice of same to the Clerk of the Common Pleas Court of Montgomery County, Ohio.

15. If any questions arise as to the adequacy or propriety of the removal of this action, the Defendant requests the opportunity to supplement this notice with evidence and/or to brief any disputed issues and present oral argument in support of this removal.

16. Defendant reserves any and all defenses or objections it may have to the Complaint or the state court action.

17. Defendant intends no admission of fact, law, or liability by this notice.

18. As there is complete diversity among the parties and the jurisdictional amount in controversy is satisfied, the Defendant hereby removes this action from the Common Pleas Court of Montgomery County, Ohio, to the United States District court for the Southern District of Ohio.

WHEREFORE, Defendants prays that this cause be removed to the United States District Court for the Southern District of Ohio.

Respectfully Submitted,

/s/ Sarah C. Perez

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Attorneys for Defendant

CERTIFICATE OF SERVICE

I, Sarah C. Perez, certify that this Notice of Removal was e-filed on April 7, 2020, with the Clerk of the Court using the CM/ECF e-file system, which will send notification of such filings to all e-filing counsels of record in this case. Additionally, a copy of the Notice of filing was delivered via email on April 7, 2020, to the parties listed below:

/s/ Sarah C. Perez
Sarah C. Perez